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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,662	02/06/2004	Fred George	ACU-102	7518
20028	7590	05/23/2005	EXAMINER	
Lipsitz & McAllister, LLC 755 MAIN STREET MONROE, CT 06468			NORMAN, MARC E	
			ART UNIT	PAPER NUMBER
			3744	
DATE MAILED: 05/23/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/773,662

Applicant(s)

GEORGE, FRED

Examiner

Marc E. Norman

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-10, 12-19, 22-27, 29-31 and 33-40 is/are rejected.
- 7) ☒ Claim(s) 7, 11, 20, 21, 28, 32, 41 and 42 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/9/04; 12/13/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

Claims 16-19 and 37-40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

While the preamble of claims 16-19 is directed to a damper, these claims do not further define the damper, but rather are directed to the airflow duct, which is external to the damper. As such, these claims fail to particularly point out and distinctly claim features of the damper. Accordingly, these claims have not been examined on the merits below.

Similarly, the preamble of claims 37-40 is directed to a method of controlling airflow within a duct, while the claims are directed to the construction of the duct itself. As such, these claims fail to particularly point out and distinctly claim features of the control method. Accordingly, these claims also have not been examined on the merits below.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1, 2, 4-6, 8-10, 12, 22, 23, 25-27, 29-31, and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Kolt.

As per claims 1 and 22, Kolt discloses a multi-valve damper for an airflow duct comprising a plug body (dividing the duct into two airflow sections (Figure 6) and two damper blades (28, 30) mounted at the distal end of the plug, each of the damper blades controlling a respective airflow section.

As per claims 2 and 23, Kolt discloses the plug splitting the duct into two airflows (Figure 6).

As per claims 4, 5, 25, and 26, Kolt discloses thermal sensor assembly 60.

As per claims 6 and 27, Kolt discloses actuator mechanisms 62 opening/closing the dampers simultaneously.

As per claims 8 and 29, Kolt discloses bellows 122 having a rounded aerodynamic shape.

As per claims 9 and 30, Kolt discloses the distal end of the plug assembly being essentially flat.

As per claims 10 and 31, Kolt discloses the duct section being round.

As per claims 12 and 33, Kolt discloses blades 28 and 30 rotating to approximately 45 degrees (Figure 6).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 3, 13, 24, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kolt in view of Hedrick et al.

As per claims 3 and 24, Figure 6 of Kolt appears to show the airflow sections being slightly different. Hedrick et al. teaches a dual damper unit wherein the flow is spit into equal sections. It would have been obvious to one of ordinary skill in the art at the time the invention was made to pass equal airflows on either side of the damper assembly of Kolt for the purpose of allowing equal distribution of air through either side of distribution system 10.

As per claims 13 and 34, Kolt does not show the damper blades rotating 90 degrees. Hedrick et al. discloses a dual damper unit wherein the blades move 90 degrees between open and closed positions (Figures 3 and 4). It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply this feature to Kolt for the purpose of minimizing air resistance in the fully open position.

Claims 14, 15, 25, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kolt.

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As per claims 14, 15, 25, and 26, Kolt does not teach electrical or pneumatic control of the damper blades. Official notice is taken that electrical and pneumatic damper controls are old and well known in the art, and would have been obvious to one of ordinary skill in the art at the time the invention was made to the system of Kolt for the purpose efficiently and accurately controlling the angle of the blades.

Allowable Subject Matter

Claims 7, 11, 20, 21, 28, 32, 41, and 42 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc E. Norman whose telephone number is 571-272-4812. The examiner can normally be reached on Mon.-Fri., 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on 571-272-4834. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MN

A handwritten signature in black ink, appearing to read 'M. Norman', is positioned above the printed name.

MARC NORMAN
PRIMARY EXAMINER